

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1862.02
 COMPLAINT INVESTIGATOR: Brian Simkins
 DATE OF COMPLAINT: January 25, 2002
 DATE OF REPORT: February 22, 2002
 REQUEST FOR RECONSIDERATION: no
 DATE OF CLOSURE: March 27, 2002

COMPLAINT ISSUES:

Whether the Fort Wayne Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to provide identified accommodations during ISTEP+ testing;
- b. failing to conduct a technology assessment as required by the IEP;
- c. failing to provide assistive technology devices;
- d. failing to provide a tape recorder for books on tape;
- e. failing to utilize and monitor use of planner; and
- f. failing to provide identified accommodations/modifications.

FINDINGS OF FACT:

1. The Student is twelve years old and attends a local middle school (the "School"). The Student is eligible for special education and related services as a student with a learning disability.
2. The Student's IEP, dated June 6, 2001, stipulates testing adaptations that also apply to statewide standardized tests. One of the requirements allows the Student to dictate and have test answers recorded by another qualified person. The Student took the statewide test beginning on September 13, 2001. On September 17, 2001, the Complainant and the Student's teacher of record ("TOR") had a meeting to discuss the Student's accommodations on the statewide exam. The Student was not allowed to have answers requiring a written response to be recorded by a scribe. The School and the TOR acknowledge that the TOR's interpretation of permitted modifications on the statewide exam was inaccurate and that the Student's IEP was not followed in this regard.
3. A technology assessment was requested at a case conference committee ("CCC") meeting held on May 31, 2001. The parent provided written approval of the CCC recommendations and signed the IEP on June 6, 2001. The sixty instructional day period began on June 7, 2001, when the School received the referral, but did not resume until the next school year began on August 20, 2001. The School acknowledges that the Student's referral for a technology assessment was not conducted within sixty instructional days due to a clerical error. The oversight was discovered on November 20, 2001. A technology assessment was conducted on December 6, 2001, however, a CCC meeting was not held to document the recommendations and a final recommendation for assistive technology was not added into the IEP.

4. The Student's IEP, dated June 6, 2001, indicates that the Student requires assistive technology devices to achieve the goals regarding written communication and that the specific devices are to be determined by the assistive technology assessment. Although the CCC did not convene subsequent to the completion of the assistive technology assessment, the school unilaterally determined the Student should utilize an Alpha Smart and a word prediction program installed on the computer in the resource room on a trial basis.
5. The Student's IEP, dated June 6, 2001, indicates that books on tape are to be provided. At the May 31, 2001, CCC meeting, it was determined that the Student would be enrolled and registered in a service that would provide books on tape. On June 8, 2001, the School contacted the parent to determine whether the parent needed the School to purchase a tape recorder and, if so, arrange to obtain the parent's signature on the application to obtain taped texts. The School left a message on the parent's answering machine and did not receive a call back. The School did not make contact again with the parent until another phone message was left with the parent on August 17, 2001. The School was successfully able to contact the parent by phone on August 20, 2001. The Student's IEP, dated June 6, 2001, took effect on August 20, 2001. A tape recorder was ordered by the School on August 21, 2001. The School also met with the parent on August 21, 2001, to obtain the requisite signature on the application for the books on tape service. The tape recorder was delivered to the Student at school on October 9, 2001.
6. The Student's IEP, dated June 6, 2001, indicates that the Student is to utilize a planner to keep track of assignments for the first nine weeks and periodically thereafter, and that the School is to monitor its use and use the planner as one way of communicating with the parent. The Complainant contends that this, in general, is not being done consistently. The Student's TOR confirms that the planner is checked every Monday for completed assignments and a parent signature. However, the School is not using the planner to communicate with the parent about ways of reinforcing the Student's self-management skills.
7. The Complainant asserts that the whole modifications/support checklist in the Student's IEP, dated June 6, 2001, is not being implemented consistently, and in some cases, not at all. However, the Complainant was unable to identify specific instances in which a modification or accommodation was not implemented, except those already identified in the Findings of Fact. The School states, and the TOR confirms, that the Student's accommodations/modifications are being implemented, which includes reading written instructions and tests, assignments modified in length and time, spelling lists reduced, notes provided in science and social studies classes, and use of the resource room for additional help as needed.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School failed to provide an identified accommodation during statewide testing. Therefore, a violation of 511 IAC 7-27-7(a) is found with regard to testing adaptations.
2. Finding of Fact #3 indicates that the School failed to conduct a technology assessment within sixty instructional days and has not convened a CCC meeting to discuss the assessment results. Therefore, a violation of 511 IAC 7-27-7(a) is found with regard to conducting a technology assessment.
3. Findings of Fact #3 and #4 indicate that, because the School failed to conduct the assistive technology assessment in a timely manner, the Student did not have access to needed assistive

technology devices. Further, the School failed to utilize the CCC in determining the specific devices to be provided to the Student. Therefore, a violation of 511 IAC 7-27-7(a) is found in regard to the provision of assistive technology devices.

4. Finding of Fact #5 indicates that the Student was not provided with a tape recorder until October 9, 2001. The Student's IEP, dated June 6, 2001, was to be initiated on August 20, 2001. Therefore, a violation of 511 IAC 7-27-7(a) is found in regard to the provision of a tape recorder for books on tape.
5. Finding of Fact #6 indicates that the Student's planner was being utilized and monitored but not being used as a method of communicating with the parent in regard to reinforcing the Student's self-management skills. Therefore, a violation of 511 IAC 7-27-7(a) is found in regard to the use of a planner.
6. Finding of Fact #7 indicates that although the Complainant asserts the School is not implementing IEP-identified accommodations and modifications, the Complainant could cite no specific instances in which the School failed to provide such modifications and accommodations. Therefore, no violation of 7-27-7(a) is found in regard to providing accommodations and modifications.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Fort Wayne community Schools shall:

1. Convene a CCC meeting:
 - a. consider and discuss the assistive technology assessment;
 - b. determine the Student's assistive technology needs and incorporate them into the IEP;
 - c. determine how school personnel will communicate with the Student's parents and incorporate same into the IEP; and
 - d. determine the Student's need for compensatory services as the result of the delayed technology assessment, assistive technology devices, and tape recorder for books on tape, and the School's failure to allow accommodations on ISTEP+ and the failure to communicate with the Student's parents.

The CCC report must document the CCC's discussion and determination on each of these items. A copy of the CCC report and IEP shall be submitted to the Division no later than March 22, 2002.

2. Review and, if necessary, revise the School's procedures for responding to a parent's request for a technology assessment. Also, send a written reminder to appropriate personnel regarding the procedures for monitoring receipt of referrals for technology assessments. A copy of the School's written procedures and a copy of the memorandum and memorandum recipients shall be submitted to the Division no later than March 22, 2002.
3. Send a written reminder to appropriate personnel regarding the requirement to ensure that students are permitted appropriate accommodations on statewide testing. A copy of the memorandum and a list of individuals to whom the memorandum was sent shall be submitted to the Division no later than March 22, 2002.

DATE REPORT COMPLETED: February 22, 2002